

THE WEEKLY ARIZONAN

JULY 24.....1869.

RECORD OF HORRORS.

We published a list, last week, of those who had been slain, murdered, or taken captives by the Indians, during the past eighteen months, in Pima county alone, but have since discovered that the bloody list was far from being complete. Accounts, never published in any newspaper, and received from various sources, since our last issue, show that ten men, not spoken of in our last week's record, (four of whom were Americans and six Mexicans,) fell into the hands of the Apache, at Tubac, Camp Crittenden, Camp Bowie and Camp Goodwin. We have also received accounts showing that an additional 163 head of stock have been stolen, within the past nine months, from Tubac, Point of Mountain and Tucson—making a total of stock stolen, in Pima county, since Jan., '68, 1690 head; and stock killed, 220 head.

It will be seen that 52 persons have been murdered, that 18 have been wounded, and that two were carried into captivity and, in all probability, suffered a thousand deaths. It is a sad spectacle to contemplate. Out of 5,500 persons, the population of Pima county, supposing one-seventh to be adults, we will have an adult population of 785; of this number, 72 have been killed and wounded and carried into captivity, making a loss of over nine per cent of our adult population, and probably, a much greater per centage of loss of property. Like true Americans, our people are fighting this unequal contest heroically, bravely. They are supported by as brave a soldiery as ever struck a blow in any cause whatever. The officers are brave, experienced and energetic, but the number of troops is sadly inadequate.

The Apache divides in small bands and only strikes when he is comparatively safe, kills his victims, seizes his plunder and hurries away to his mountain home where he is secure.

The number of the military are only sufficient to guard the posts and send out small scouts who have not strength to follow them to their homes and destroy their crops and fight them upon their own ground. Until this is done of course there can be no peace.

Could our kindred know and feel how bravely the people of Arizona are facing death and suffering all the hardships and privations of a new world go forth to have instant and ample assistance sent to our relief.

When it is considered that we are battling to hold an area of territory nearly three times as large as New York, every foot of which has to be fought over and over again, the magnitude of the undertaking will be appreciated. We believe that every Arizonan appreciates that he is occupying the post of honor, for it is the dangerous post—nor will they shrink from duty—but from present appearances unless we have more assistance the noble little band will waste away until there is none left to tell the story.

Our mountains are filled with gold and silver; our broad valleys produce in abundance. Two crops upon the same land yields an abundant harvest; our herds thrive the year around upon the beautiful supply that nature has given them. We have room, and to spare, for hundreds of thousands of the poor of other countries were it not for the Apache. May the time soon speed along when we shall have assistance that will drive the Apache from the country or compel him to live in peace with us.

It would appear that the Indians of Northern Arizona study other pursuits than that of war. The Miner says:

"A gentleman just arrived from Camp Date Creek, informs us that Major Wade, with his company, B, of the 8th cavalry, had returned to the post from a scout in the Hacquah Mountains, where the command saw plenty of Indians, whom they could not get near enough to kill. Some of the Indians, it is said, yelled at the troops in English."

Now, that looks like progress, and when the Quakers shall have sojourned with us for a couple of years, we may expect to find Lo in transports over "Homer" or criticising "Shakespeare."

"Nothing late or interesting from Tucson recently. What's delaying you, Arizonan?"—*Denver Herald.*

The failure of our sheet to reach the *Herald's* sanctum is a disappointment to us as well as to our friend Goldrick. Yet it is a consolation to know that the fault is not ours. The Vandal sons of blood and pillage, who destroyed our mails and kill our drivers, doubtless used our ample margin in manufacturing cigarettes.

The following questions proposed by Hon. John B. Allen, and the reply of the Governor thereto, fully explain themselves:

TERRITORY OF ARIZONA.

OFFICE OF THE TREASURER,
TUCSON, JULY 22, 1869.

To His Excellency,

A. P. K. Safford

Governor of Arizona.

SIR:—

Having recently come among us as Governor of the Territory, to "Take care that the laws are faithfully executed," the people will feel an interest in knowing your views of the decisions of Judge Backus in the cases of Attorney Genl. vs. Buckalew, and Attorney Genl. vs. McCaffrey, and if such decisions, in your opinion, invalidate any of the laws of the Territory.

2d. No proclamation was issued by the Actg. Governor of the Territory, and with one or two exceptions, no election was held in the Territory in the month of June last.

When, in your judgment, will the terms of the County and Precinct officers expire; and what remedy do you propose to keep the Territorial government in motion?

Respectfully Yours,

JOHN B. ALLEN.

TERRITORY OF ARIZONA.

OFFICE OF THE GOVERNOR,
TUCSON, JULY 22, 1869.

Hon John B. Allen

SIR:—

I am in receipt of your letter of this date and, in reply, would say that I have examined the decisions of Judge Backus, referred to. The merits of the question involved in the decision are these: The Organic law of the Territory provides for apportioning the representation in the several counties, or districts, to the Council and House of Representatives, in the following words:

"And the persons thus elected to the Legislative Assembly, shall meet at such place and on such day as the Governor may appoint; but thereafter, the time, place and manner of holding and conducting all elections, by the people, and the apportioning the representation in the several counties or districts to the Council and House of Representatives according to population, shall be prescribed by law."

The Legislature of 1866 provides for the apportionment of the members of the Legislature, in the following words:

"Members of the Legislature shall be elected by counties according to the apportionment of the Governor provided, that members of the Council shall in all cases be elected for two years."

The Judge, in the decision referred to, decided that the manner of making the apportionment was illegal for the reason that the Legislature had no right to delegate the power to the Governor to make the apportionment; that the Legislature that assembled in pursuance of said apportionment was an illegal body, and that all legislative acts since that time are illegal and void.

The decision of Judge Backus is entitled to the same respect as that of any other judicial officer, but his decisions can only effect the parties to the suit that was tried before him, and nobody else. It would have the same force and effect as a decision of a Justice of the Peace in a case that was legally before him, and no more. Either could determine the rights of the parties in the suits before him, for the time being, and that is all either could do.

The people, through their representatives, enact certain laws; these laws must be enforced and obeyed until declared illegal and void by highest courts of the country, or annulled or amended by the Legislature or Congress. It will be plain that no other course can be pursued without resulting in ruin or anarchy. If, upon the mere opinion of a district Judge, Justice of the Peace, or other judicial officer, years of legislation could be blotted from the statutes, the lives and security of the people would hang upon a very slender thread indeed. Such an interpretation in the present case would at once leave us without county officers throughout the Territory; all the acts of said officers would have been usurpations, consequently void; all criminals under indictment, or that have been convicted, would be immediately turned loose. The Judge who made these decisions was holding court in pursuance of these illegal laws, (if they were illegal as claimed by him;) many of his decisions were effected by amendments to the civil and criminal practice made by the same illegal bodies. The Sheriff whom he directed to execute his mandates, even to the extent of taking the life of a fellow-being, had no legal

existence. I deem it unnecessary to pursue this branch of the subject further—the case is too plain for argument—a statement of the facts is sufficient.

With regard to your second inquiry I will say that had I arrived here in time I should have certainly issued a proclamation calling an election, as provided by law; to have pursued any other course, upon the ground that the law was illegal, before the highest courts of the country had decided the question, would have been a plain usurpation of judicial power which the Executive has no right to encroach upon; but, on the contrary, it is made his duty, by the organic law of the Territory, "to take care that the laws be faithfully executed."

I believe the people ought to have the privilege of changing their public servants as often, certainly, as they express a desire by their laws, passed by their representatives in the Legislature. Acting upon this conviction I should call a special election, but I find from a careful examination that the Governor has no power to call a special election except to fill vacancies in the Legislature and Delegate to Congress. I deem it useless to call a special election for the purpose of electing only members of the Legislature, for the reason that Congress has made no appropriation to defray the expenses of holding a session this year. Congress has enacted that, hereafter, sessions of the Legislature in the several Territories shall be biennial, and it was the evident expectation that no session would be held in any of the Territories this year, except Wyoming. That Territory being but recently organized Congress made an appropriation for a session there.

The question is now narrowed down to the time when the term of the various County and Precinct officers expire, and what course can be pursued to fill the offices.

There has been so many changes in the statutes of the Territory as to the time fixed for the expiration and commencement of the terms of office, of the various County and Precinct officers, that it requires careful examination and comparison to ascertain definitely how the matter stands. By reference to the statutes of 1866, page 44, entitled "An Act amendatory of chapter twenty-four, 'Howell Code,' Of General and Special Elections;" Chapter 24, Sec. 1, of said code, is amended so as to provide that the election shall be held on the first Wednesday of June in each year instead of the first Wednesday of September, and section sixty-seven of said chapter is amended and provides that the term of all officers elected under the provisions of this chapter shall expire on the last day of June instead of November; and the term of all officers elected under such provisions, except Delegate in Congress, shall commence on the first day of July instead of December.

The Statutes of 1867, page 31, "An Act Defining the Qualification of Officers elected at any General Election in the Counties of the Territory, and legalizing the acts of the Officers holding over in the Counties of Yavapai, Yuma and Mohave, since the first day of July, and until the first day of December;" Section 3, of said act, provides "that the term of office of all county officers, hereafter to be elected, for a full term, at any general election, shall commence on the first day of December next after such general elections." It is evidently the intention of the law, as it now stands, that the term of all County and Precinct officers shall expire on the last day of November after such general election. It is not in accordance with the policy of our government that offices shall ever become vacant, and I am not clear but that the failure to call an election this year would entitle the incumbents to hold until their successors are elected and qualified. But, to avoid all danger of dispute and conflict, I would advise the Boards of county Supervisors of the various counties, to fill their board by the appointment, if possible, of the retiring member, and then appoint the present incumbents of the various County and Precinct officers. This will make the matter sure. Two of the members of the Board of supervisors hold over, and a quorum is competent to transact business—hence there is no question with regard to their power. If the County and Precinct officers can hold over until their successors are elected and qualified, then their appointment by the Board can do no harm. Upon the other hand, if it should be determined that their official career ceases on the last day of November, then the appointment by the Board continues them legally in office.

In the recommendations I have made, in answer to your letter of inquiry, I have been

actuated by no other motive than to the common weal. I have no prejudice against persons or localities. My earnest desire is to see the whole country prosper, of life and property restored; the values of the Territory developed, and placed, as she is destined to be, among the richest and fairest jewels of the Republic. To accomplish this object I earnestly appeal to the good people of the Territory to overcome jealousies and personal animosities, and together in yielding a willing obedience to laws, in endeavoring to subdue the enemy, and in developing the country.

Respectfully Yours,
A. P. K. SAFFORD

From the Los Angeles News we learn Mexican named Baulista Nero who was men at Los Angeles on the 2d inst, wanted, it having been proven that he acted in defiance.

The same paper says: A mutiny occurred on board the bark at San Pedro, last Saturday. There persons engaged in it were arrested and before the Justice of the Peace in Wilcox.

Notice!

In the matter of the } In the Probate Court
Estate of } Pima County
M. J. Flournoy dec'd } Arizona Territory
To the People of Arizona Territory:

Notice is hereby given that P. R. Taylor, having filed in this Court his petition praying for letters of administration upon the estate of Matthew J. Flournoy, deceased, The hearing of said petition has been fixed by this Court on Wednesday, the 28th day of July, A. D. 1869, at 10 o'clock, a. m., of said day, at the Probate Court Room, in the town of Tucson, and all persons interested in said estate are notified then and there to appear and show cause, if any they have, why said petition should not be granted and letters of administration issued thereon.

By order of the Clerk,
OSCAR BYCKALEW
Tucson, July 17th, 1869.

Notice!

In the matter of the } In the Probate Court
Estate of } Pima County
Joaquin Tapia, dec'd } Arizona Territory
To the people of Arizona Territory:

Notice is hereby given that L. B. W. and Philip Drachman, administrators of the estate of said deceased, having filed in Court their petition praying for an order on the personal property belonging to said estate, The hearing of the same has been fixed by the Court for Wednesday, the 28th day of July, A. D. 1869, at 10 o'clock a. m., of said day, at the Probate Court Room, in the town of Tucson, and all persons interested in said estate are notified then and there to appear and show cause, if any they have, why an order should not be granted.

By order of the Clerk,
OSCAR BUCKALEW
Tucson, July 17th, 1869.

Notice!

In the matter of the } In the Probate Court
Estate of } Pima County
J. G. Gaige, deceased. } Arizona Territory
To the People of Arizona Territory:

Notice is hereby given that Charles H. M. having filed in this court his petition praying for letters of administration upon the estate of J. G. Gaige, deceased, The hearing of said petition has been fixed by this court for Saturday the 31st day of July, A. D. 1869, at 10 o'clock a. m., of said day, at the Probate Court Room, in town of Tucson; and all persons interested in said estate are notified then and there to appear and show cause, if any they have, why said petition should not be granted and letters of administration issued thereon.

By order of the clerk,
OSCAR BUCKALEW
Tucson July 19th, 1869.

Vinegar!

The best Malt and Cider Vinegar for sale at the PIONEER BREWERY, July 24th.

NOTICE!

Notice is hereby given that firm of HINTON, HOOPER & Co., have ceased to be a member of the firm of HINTON HOOPER & Co.

F. HINTON.
Arizona City, A. T., May 1, 1869. 3m:fm15

NOTICE!

Mr. FRANCIS HINTON having retired from the firm of HINTON, HOOPER & Co., the business will be continued by the undersigned under the firm name of HOOPER WHITING & Co. All outstanding accounts and all claims against the old firm will be settled by the undersigned.

Wm. B. HOOPER
A. H. WHITING
Jas. M. BARNEY
Jno. S. CARR
Arizona City A. T., }
May 1, 1869. }
3m:fm15